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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,356	03/29/2001	Jens Kircher	1504	1171

7590 02/23/2006  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER

BROWN, VERNAL U

ART UNIT PAPER NUMBER

2635

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/806,356	<b>Applicant(s)</b> KIRCHER, JENS	
	<b>Examiner</b> Vernal U. Brown	<b>Art Unit</b> 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-27 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 18-27 and 29-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to communication filed on November 18, 2005.

#### ***Response to Arguments***

In view of the appeal brief filed on April 8, 2005, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Applicant argued on pages 7-8 that the reference of Borgstahl fail to teach the limitation of construction of data connection with the integrated household control system is automatically initiated if the distance from the household control base drops to predetermined limit value or if it reaches a predetermined region surrounding the control base. The reference of Borgstahl teaches personalization of an appliance without requiring any action from the user whenever the user is near the appliance (col. 7 line 62-col. 8 line 54). Borgstahl teaches communication between the data terminal and the household device (20) is based on proximity (col. 5 lines 43-45) and the proximity is used to limit physical distance between the communicating units (col. 14 lines 3-5).

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Applicant argues on page 8 that Borgstahl fail to teach that the limit value or the region is predetermined. It is the examiner position that Borgstahl teaches the limit value or the region is predetermined because Borgstahl teaches operating the communication unit at a low power so as to limit the communication range to less than 5 meters (col. 4 lines 57-62).

Applicant argues on page 9 that the reference of Joao fail to teach that the mobile data terminal is disposed in a vehicle. It is the examiner position that Joao teaches a data terminal provided by the transceiver 3 (col. 20 lines 7-25) is disposed in the vehicle attach to apparatus 1 as illustrated in figure 1.

Applicant argument regarding the navigation device as taught by Glehr is mute is mute in view of grounds for new rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-21, 23, 29-31, and 35-37 are rejected under rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911.

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Regarding claims 18 and 29, Borgstahl et al. teaches a method for constructing a data connection between an integrated household control system (col. 4 lines 12-18) and a mobile data terminal (34) located outside the base of the integrated household control system (col. 5 lines 38-44). Borgstahl et al. teaches communication between the data terminal and the household control system formed by the device 20 is based on proximity (col. 5 lines 43-45) which further represents the automatic construction of the data connection with the integrated household control system if one reaches a predetermined region surrounding the household control base. The proximity detection (col. 5 lines 16-20) represents position determining as defined by the specification (page 7 line 26-page 8 line 3) because position detection as describe by the specification consist of determining when the controller device is with a certain range of the device to be controlled. Borgstahl et al. is not explicit in teaching a position determining device. Glehr in an art related controller device teaches a portable device having a component that serves as the position determining device (distance detecting device) (col. 3 lines 65-67) in order to determine when the portable terminal is proximate to the system to be controlled.

It would have been obvious to one of ordinary skill in the art to have a positioning determining device coupled to the mobile terminal in Borgstahl et al. as evidenced by Glehr because Borgstahl et al. suggests communication between the mobile terminal and household control system is enabled when the mobile terminal is proximate to the householed control system and the position determining device serves the purpose of detecting when the mobile terminal is proximate to the device to be controlled.

Regarding claim 19, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via a mobile radio network (col. 5 lines 38-41).

Regarding claim 20, Borgstahl et al. teaches the data connection between the data terminal and the integrated household control system is constructed via the internet (col. 9 lines 62-66).

Regarding claim 21, Borgstahl et al. teaches the household control system transmits alarms to the controller (col. 15 line 65-col. 16 line 3). The communication between the household control system and the data terminal is based on a request followed by a response protocol as shown in figure 21 (data is not simultaneously transmitted from the household control system and the data terminal). Therefore data is transmitted from the household control system to the data terminal when there is no existing connection in the opposite direction.

Regarding claim 23, Borgstahl et al. teaches the use of a peer-to-peer device as the data terminal (col. 5 lines 42-45) and further teaches the use of a computer as the peer-to-peer device (col. 4 lines 1-4). Borgstahl et al. therefore teaches the use of a computer as a data terminal.

Regarding claim 30, Borgstahl et al. teaches the data terminal (34) communicating with the household control system based on proximity (col. 5 lines 38-44) and the remote device send data to the household control system (20) as shown in task 96 and task 98 of figure 10. Borgstahl et al. further teaches an example of a remote device controlling an appliance in which the remote

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controller displays available commands and the corresponding icons associated with the commands (col. 16 lines 24-27). The computer program that allows the display of the available command is considered a browser and Borgstahl et al. further teaches communication by the internet (col. 9 lines 62-66).

Regarding claim 31, Borgstahl et al. teaches a wireless network (col. 3 lines 65-67) and mobile (portable) station (col. 4 lines 41-45).

Regarding claims 35-37, Borgstahl et al. teaches a method (figure 17) for constructing a data connection between an integrated household control system and a data terminal (col. 13 lines 32-35) comprising coupling the data terminal with a mobile positioning determining device evidenced by the data terminal detecting its proximity to a device to be controlled (col. 5 lines 43-45), wherein the data terminal (121) is mobile (col. 13 line 36), and controlling the data terminal by the position determining device in such a way that if the distance from the household control base reaches a predetermined region surrounding the household control base (col. 13 lines 35-36), automatically initiating the construction of the data connection with the integrated household control system via a mobile interface of the data terminal (col. 13 lines 36-40). Borgstahl et al. further teaches an example of a remote device controlling an appliance in which the remote controller displays available commands and the corresponding icons associated with the commands (col. 16 lines 24-27). The computer program that allows the display of the available command is considered a browser and Borgstahl et al. further teaches communication by the internet (col. 9 lines 62-66). Borgstahl et al. is not explicit in teaching a position

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determining device. Glehr in an art related controller device teaches a portable device having a component that serves as the position determining device (distance detecting device) (col. 3 lines 65-67) in order to determine when the portable terminal is proximate to the system to be controlled.

It would have been obvious to one of ordinary skill in the art to have a positioning determining device coupled to the mobile terminal in Borgstahl et al. as evidenced by Glehr because Borgstahl et al. suggests communication between the mobile terminal and household control system is enabled when the mobile terminal is proximate to the household control system and the position determining device serves the purpose of detecting when the mobile terminal is proximate to the device to be controlled.

Claims 22, 24, 25, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911 and further in view of Joao U.S Patent 5917405.

Regarding claims 22 and 24, Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal (col. 4 lines 1-4) but is silent on teaching the mobile data terminal is disposed in a motor vehicle and also serve to control motor vehicle function. Joao in an art related control system invention teaches a mobile data terminal (figure 1) disposed in a vehicle and control vehicle function and household appliance (col. 5 lines 52-67).



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It would have been obvious to one of ordinary skill in the art for the mobile data terminal is disposed in a motor vehicle and also serve to control motor vehicle function in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view of Hashimoto et al. teaches the use of a computer as a data terminal and Joao teaches a mobile data terminal disposed in a vehicle and control vehicle function and household appliance.

Regarding claims 25 and 32, Borgstahl et al. teaches the use of a data terminal to transmit control information (figure 21) but is silent on teaching an Internet telephone serves as the data terminal. Joao in an art related control system invention teaches the use of a telephone as a data terminal (col. 72 line 56-col. 73 line 7) for connecting to a household control system.

It would have been obvious to one of ordinary skill in the art to have a telephone serve as the data terminal in Borgstahl et al. in view of Hashimoto et al. as evidenced by Joao because Borgstahl et al. in view in view of Hashimoto et al. suggests the use of a data terminal to transmit control information to household control system and Joao teaches the use of a telephone as a data terminal for connecting to a household control system.

Claims 26-27 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borgstahl et al. U.S Patent 5909183 in view of Glehr U.S Patent 5723911 and further in view of Hoffman et al. US patent 6239700.

Regarding claims 26 and 33, Borgstahl et al. teaches a navigation device which determines the proximity of the remote control to the device be controlled (col. 5 lines 16-20) but is silent on teaching at least one component of the navigation device serves as a position determining device. Hoffman et al. in an art related tracking system teaches combining a mobile

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navigation device with a position determining device (col. 5 lines 42-53) in order to provide a practical device for providing security and tracking.

It would have been obvious to one of ordinary skill in the art for the navigation device serves as a position determining device in Borgstahl et al. in view of Glehr as evidenced by Hoffman et al. because a practical device for providing security and tracking functions.

Regarding claims 27 and 34, Borgstahl et al. teaches the mobile of system (figure 2) uses RF communication (col. 14 line 47) therefore the mobile system is considered a mobile radio system but is silent on teaching at least one component of the radio device serves as a position determining device. Hoffman et al. in an art related tracking system teaches combining a mobile navigation device with a position determining device (col. 5 lines 42-53) in order to provide a practical device for providing security and tracking.

It would have been obvious to one of ordinary skill in the art for the navigation device serves as a position determining device in Borgstahl et al. in view of Glehr as evidenced by Hoffman et al. because a practical device for providing security and tracking functions.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown  
February 16, 2006

MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

